



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 15, 1993

Ms. Jackie Denman  
City Secretary  
City of Lancaster, Texas  
P.O. Box 940  
Lancaster, Texas 75146-0940

OR93-311

Dear Ms. Denman:

You ask that this office reconsider part of its ruling in Open Records Letter OR93-243 (1993), in which we held that the City of Lancaster did not raise section 3(a)(11) in a timely manner and thus waived the protection of this exception. For the reasons discussed below, we decline to reconsider our ruling.

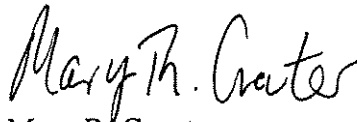
You state that the city received Ms. Atteberry's open records request on January 25, 1993 and you requested an open records decision from this office on January 26, 1993. In your January 26th letter to this office you contended that three documents came under the protection of section 3(a)(2) of the Open Records Act, which protects "information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

Because it was not clear to this office exactly which portions of the documents you believed to be protected by section 3(a)(2) or your reasons for invoking this exception, we asked that you submit your arguments for withholding those documents by a postcard postmarked February 26, 1993. This request, however, was *not* an invitation to raise new arguments outside the ambit of section 3(a)(2), but rather an opportunity to clarify the arguments made in your original request for an open records decision.

As noted in OR93-243, this office will consider the applicability of exceptions to disclosure raised after the initial ten-day time period only if a compelling reason exists for applying that exception. Your letter dated March 3, 1993 raised new section 3(a)(2) arguments and raised sections 3(a)(1), 3(a)(11), and 3(a)(17) for the first time. Because the employee's privacy interests were implicated, we considered your new section 3(a)(2)

arguments and the applicability of sections 3(a)(1) and 3(a)(17), even though you failed to raise them within the ten-day deadline. By contrast, we did not consider your claims regarding section 3(a)(11) because you failed to present this office with a compelling reason for withholding the personnel evaluations under that section. Your request for reconsideration does not suggest there is a compelling reason for withholding those materials under section 3(a)(11). For the foregoing reasons, we see no reason to reconsider OR93-243.

Yours very truly,

A handwritten signature in cursive script, reading "Mary R. Crouter".

Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/RWP/jmn

Ref.: ID# 20383  
OR93-243

cc: Ms. Sheryl Atteberry  
2523 Hulette  
Lancaster, Texas 75134